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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,860	10/27/2003	Nathan Paul Monty	1798-000001/US	9225

7590 07/26/2005

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Arlington, VA 22201-4714

EXAMINER

RODRIGUEZ, ARMANDO

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary****Application No.**

10/692,860

**Applicant(s)**

MONTY, NATHAN PAUL

**Examiner**

ARMANDO RODRIGUEZ

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 46-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 8, 2005 has been entered.

### ***Response to Amendment***

Claims 1-45 have been canceled.

New claims 46-56 are pending.

### ***Claim Rejections - 35 USC § 112***

Claims 48-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has failed define "adjacent sections", claim 1 defines first and second sections, however no structural relationship has been defined within claim 1 for providing a structure to include "adjacent sections", thereby the is vague and indefinite as such a proper examination of the claims 48-50 cannot be completed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 46, 47, 51 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Levatter et al (US 4,005,374).

Regarding claim 46,

Levatter et al illustrates in figures 1, 2 and 3 a pulsed gas laser having electrodes (16) and (18) [applicant's first and second electrodes]; having insulating walls (52) and (53) [applicant's first and second sectional walls], as illustrated in figure 3 the walls are disposed between the electrodes; having a gas chamber (19) with mirrors (20) and (22) [applicant's waveguide] see figures 1 and 3. The electrodes as illustrated in figure 3 and described in column 4 lines 29-37, include protruding sections (85) and (86) [applicant's protrusion].

Regarding claim 47,

The electrodes as illustrated in figure 3 and described in column 4 lines 29-37, include protruding sections (85) and (86) [applicant's protrusion].

Regarding claim 51,

Column 4 lines 33-37, discloses the protruding sections of the electrodes as confining the electric discharge [applicant's localized electric field].

Regarding claim 56,

Levatter et al discloses an electrically pumped gas laser, thereby the laser will inherently establish an electromagnetic field.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levatter et al (US 4,005,374) as applied to claim 46 and further in view Dezenberg et al (US 4,507,786).

Regarding claim 52,

Levatter et al discloses an electrically pumped gas laser but is silent as to the gas being CO<sub>2</sub>.

However, the use of CO<sub>2</sub> in electrically pumped gas lasers is well known in the art as evident by Dezenberg et al documented in 1985 and described in column 2 lines 61-64.

Claims 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levatter et al (US 4,005,374) as applied to claim 46 and further in view of Neracher (US 4,367,553).

Regarding claims 53 and 54,

Levatter et al discloses an electrically pumped gas laser with insulating walls but is silent as to the walls being made of a ceramic such as BeO, Al<sub>2</sub>O<sub>3</sub> or AlN.

However, it is well known in the art that ceramic such as BeO provide insulation electrically pumped gas lasers, as evident by Neracher documented in 1983 and described in column 9 lines 8-11.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levatter et al (US 4,005,374) as applied to claim 46.

Levatter et al discloses an electrically pumped gas laser with insulating walls but is silent as to the walls having a length of less than 200 mm.

However, in accordance with MPEP 2144.05 II A, the court has established that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955)

In the instant application, it would have been obvious to a person having ordinary skill in the art at the time of the invention to select a desired or a design preference length of the insulation walls because the walls will provide electrical isolation of the electrodes regardless of the desired length.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARMANDO RODRIGUEZ whose telephone number is 571-272-1952. The examiner can normally be reached on 9:00 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MINSUN HARVEY can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ARMANDO RODRIGUEZ  
Examiner  
Art Unit 2828

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